

Notice of Allowability	Application No.	Applicant(s)	
	09/928,108	HALL ET AL.	
	Examiner	Art Unit	
	Janet L. Coppins	1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' Amendment of March 23, 2006.
2. ☒ The allowed claim(s) is/are 1-7.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/693,301.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

<ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material 	<ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____
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DETAILED ACTION

1. Claims 1-7 are now pending in the instant application.

Response to Amendment

2. Receipt is acknowledged of Applicants' Amendment "B", filed March 23, 2006, which has been reviewed by the Examiner and entered of record in the file.
3. Accordingly, the Specification, as well as claims 1, 3, and 4 have been amended, and new claim 7 has been added. Claims 5 and 6 remain withdrawn from consideration as being directed to non-elected subject matter.

Claim Rejections - 35 USC § 112

4. Claims 1-4 previously rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(a) Claim 1 was rejected for reciting the variables "m" and "n" as "the number of fused 6-membered aromatic rings connected to each side of the central moiety..." Since Applicants have amended claim 1 to delete "m" and "n," this rejection has been obviated and is withdrawn.

(b) Claim 3 was rejected for reciting the limitation, "wherein bulky substituents are utilized." Since the claim has been amended to clarify the utility of the bulky substituents, the Examiner withdraws the rejection.

(c) Claim 4 was previously rejected for reciting the term "compound" as well as "utilized" and the limitation "such as." In view of Applicants' amendatory changes to the claim, the Examiner withdraws the rejections to the claims.

REASONS for ALLOWANCE

5. Claims 1-7 are allowable over the prior art. The following is an examiner's statement of reasons for allowance: the instant invention relates to compounds that are suitable for use as infrared dyes, and compositions containing these compounds. The instant application is a CIP of U.S. Appl. No. 09/693,301, which has been found allowable, and is now U.S. Pat. No. 6,693,301. The allowable subject matter in this case is limited to compounds of formula I of claim 1, that are infrared absorbers and are useful in optical data recording. Certain polycyclic compounds are known in the art as infrared dyes, however the aspect of preparing the same polycyclic compounds, dyes, and solvents as instantly recited, comprised of molecules of formula 1, is novel and unobvious. After a thorough search, the closest prior art of record, EP 1017016 A2, teaches similar luminescent compounds that are useful as infrared dyes, yet do not teach the same compounds as instantly claimed. Therefore the prior art fails to anticipate, fairly suggest, or render obvious the instant claimed compounds, dyes, or compositions.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Telephone Inquiry

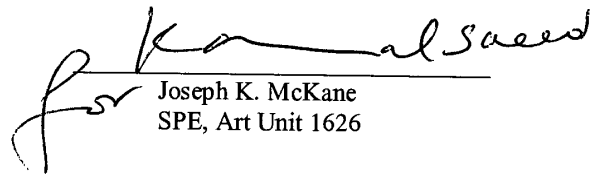
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L. Coppins whose telephone number is 571.272.0680. The examiner can normally be reached on M-F 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571.272.0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Janet L. Coppins
June 12, 2006


Joseph K. McKane
SPE, Art Unit 1626